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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/805,935	03/22/2004	Cheryl F. Cohen	CFC 0001	1026
7590 05/20/2005				
Cheryl F. Cohen, LLC 2409 Church Road Cherry Hill, NJ 08002				
			EXAMINER HOESLY, RYAN C	
			ART UNIT 3727	PAPER NUMBER

DATE MAILED: 05/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b> 10/805,935	<b>Applicant(s)</b> COHEN, CHERYL F.	
	<b>Examiner</b> Ryan C. Hoesly	<b>Art Unit</b> 3727	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 03 March 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 March 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1-9, 11-19, and 21-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Williams et al (US Patent Number 5154332). Williams teaches an enclosure for back carried-equipment that includes a front panel (26), a back panel (28), two side panels (34a and 34b), a top panel (32) and a bottom panel (30) that form a main compartment (16). Williams discloses a releasable securing device, which in the preferred embodiment is a zipper (14c), for accessing the main compartment with a terminating end disposed on the back panel and the beginning end on the front panel. The zipper of the Williams device is oriented longitudinally when the backpack is held upright and terminates at the shoulder straps (52) where the end of the zipper would rest against a wearer's body when worn. The top panel of the Williams device could be considered the bottom or side panel depending on the orientation of the device. For example, in Figures 7 and 8 disclosed by Williams, it is shown that the releasable securing devices and panels of the enclosure can take a variety of orientations while remaining within the scope and spirit of the disclosure. Williams further discloses, "a closure device could be configured in a T orientation" (column 5, line 22) which would position a releasable securing device laterally where it would extend across a portion of

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the side panel. Additionally, a second set of straps (18) are disposed laterally, which, when carried in this orientation, would cause the releasable securing device to extend across at least a portion of the side panel.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Williams et al (US Patent Number 5154332) as applied to claims 1-9, 11-19, and 21-24 above. Williams teaches an enclosure for back-carried equipment with a releasable securing device that spans a plurality of panels. As disclosed in column 5, line 54 "modifications of the present invention are contemplated and can be resorted to by those skilled in the art, without departing from the spirit and scope of the invention." Williams discloses many different embodiments and orientations for the releasable securing devices and the enclosure, therefore, it would have been obvious to one skilled in the art at the time of invention to change the length or orientation of the releasable securing devices while remaining within the scope and spirit of the Williams enclosure. As shown by Figure 8 disclosed by Williams, the releasable securing devices can have a length spanning from just a portion of the back panel to a majority of the back panel and it would be obvious to have the length of the releasable securing device extend at least substantially halfway along the back panel.

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4. Claims 10 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Williams et al (US Patent Number 5154332) as applied to claims 1-24 above, and further in view of May (3530919). To the extent that it can be argued that it would not be obvious for the zipper of Williams to extend substantially halfway along the back panel, May specifically discloses this feature. May teaches a golf bag that includes shoulder straps (17) attached to a bag that features a zipper (11) extending across multiple panels (4) and terminating at least substantially along the back panel. It would have been obvious to one skilled in the art at the time of invention to apply the teachings of May to Williams so that the zipper would extend substantially halfway along the back panel, while still beginning on a separate panel and terminating on the back panel.

#### ***Response to Arguments***

4. Applicant's arguments filed 3/14/05 have been fully considered but they are not persuasive. Applicant argues that the device that Williams discloses cannot be considered a backpack. However, Williams discloses that the enclosure is for attachment to a harness for any back carried equipment. While, the attachment is not integral, it does not diminish the fact that the enclosure is attached to shoulder harnesses to form an enclosure that can be carried on the back of a user. Thus, it would function in a similar way as a common external frame backpack that utilizes an enclosure that attaches to a shoulder harness frame for transporting articles.

Williams discloses multiple types of straps (60 and 18) that would be capable of supporting the enclosure on the back of a user. The Williams device could be carried in

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the disclosed upright position or in a sideways position by either of these straps. The strap (18) has two ends that are attached at one side of the back panel that forms a loop that is fixed to a complimentary strap by a connecting member (12). This forms two strap members that would be capable of being worn on the shoulders and supporting the enclosure in an orientation rotated 90 degrees from the disclosed upright position. Thus the zippers (14a, 14b, and 14b) would be disposed substantially laterally in this orientation and the second panel spanned by the zipper would be a side panel.

Applicant further argues that the enclosure could not be oriented in a different way where the disclosed top panel would be located on the side or bottom of the enclosure. However, the opening provided for the straps of the shoulder harness is substantially long and wide enough to accommodate different sized and oriented shoulder harnesses. For example, it would be ideal to orient the Williams device where the disclosed top panel is on the bottom for shoulder harnesses that are disposed at the top of a frame as opposed to the bottom as shown Figure 5. The Williams device would be fully capable of functioning in this orientation or a sideways orientation depending on the properties of the shoulder harness.

Applicant also argues that the zipper would not rest against a wearer's body when worn. As can be seen in Figures 3A and 4 of Williams, the zipper (14c) terminates where the opening for the shoulder harness begins. As shown in Figure 5, it is common for the point where the shoulder straps of a backpack are attached to the back panel to be below the shoulders of the user as straps are generally worn loose enough to allow the user to comfortably remove them. Referring again to Figure 4, it is

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shown that the opening for the shoulder harness, and thus the terminating end of the zipper, is located at nearly the same location where the straps are attached to the backpack. Obviously the zipper would rest against the back of the user when worn in this orientation.

With regards to the applicants arguments that it would not be obvious for the zipper chain to be disposed at least substantially halfway along the back panel, Williams shows in Figure 8 a zipper that spans the entire back panel and a second panel. While the terminating point is located on the second panel as opposed to the back panel, it would be obvious to have the terminating point and beginning point of the embodiment shown in Figure 8 be reversed so that the beginning point would be located on the second panel and the terminating point would be located on the back panel. As shown by the previous figures, all the previous embodiments include the terminating points of all the zippers located on the back panel. The slight modification of reversing the beginning and terminating points would have the zippers spanning the entire length of the back panel, while still retaining all the functionality desired by Williams.

### ***Conclusion***

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ryan C. Hoesly whose telephone number is (571)-272-6083. The examiner can normally be reached on Monday-Thursday 8:00am-6:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee Young can be reached on (571) 272-4549. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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**JES F. PASCUA**  
**PRIMARY EXAMINER**